



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------------|---------------------|------------------|
| 10/782,902 | 02/23/2004 | Max Stanford Tomlinson JR. | 03191.000100 | 7510 |

5514 7590 07/26/2007
FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112

EXAMINER

COBANOGLU, DILEK B

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

3626

| MAIL DATE | DELIVERY MODE |
|-----------|---------------|
|-----------|---------------|

07/26/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|--------------------------------|----------------------------------|--|
| Office Action Summary | Application No. 10/782,902 | Applicant(s) TOMLINSON ET AL. | |
| | Examiner Dilek B. Cobanoglu | Art Unit 3626 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 May 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date <u>02/23/2004</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Notice to Applicant

1. This communication is in response to the amendment filed on 05/21/2007.

Claims 1 and 10 have been amended; and claims 13-15 are newly added. Claims 1-15 are pending in the application.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-7, 13-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jamroga et al. (hereinafter Jamroga) (U.S. Patent No. 6,574,742 B1) in view of Herzen et al. (hereinafter Herzen) (U.S. Patent Publication No. 2002/0099652 A1).

A. Claim 1 has been amended now to recite a business method for providing a payer with access to digital medical image data generated by up to a plurality of imaging facilities, the business method comprising the steps of:

- i. receiving digital medical image data generated by the imaging facilities using a gateway at each imaging facility (Jamroga; col. 7, lines 10-17, col. 8, lines 44-67, col. 10, line 53 to col. 11, line 52, figures 1-2, 5);

- ii. transmitting the received digital medical image data from the gateway to a central server via a network and storing the digital medical image data at the central server (Jamroga; col. 10, lines 21-52, col. 16, line 58 to col. 17, line 30, figures 1-2, 4-7);
- iii. providing the payer with access to the stored digital medical image data via the network for a fee (Jamroga; col. 6, line 64 to col. 7, line 44, col. 8, lines 44-67, col. 9, lines 22-33, col. 12, lines 29-65, col. 13, lines 12-20); and
- iv. forwarding access to the stored digital medical image data to an individual other than the payer, wherein access is forwarded to the other individual by the payer and the other individual is thereafter granted access to the stored digital medical image data.

- Jamroga fails to expressly teach the payer forwarding access to an individual other than the payer. However, this feature is well known in the art, as evidenced by Herzen.

In particular, Herzen discloses the payer forwarding access to an individual other than the payer (Herzen; paragraphs: 0066-0073, figures 8, 14).

It would have been obvious to one having ordinary skill in the art at the time of the invention to include the aforementioned limitation as disclosed by Herzen with the motivation of to permit the user to

view web pages, send information via web-based forms and encoded URLs, and download files (Herzen; paragraph: 0055).

B. Claims 2-7 have not been amended, and Applicant does not appear to argue the separate patentability of these claims. As such, claims 2-7 are rejected for the same reasons given in the previous Office Action (paper number 3-4), and incorporated herein.

C. Newly added claim 13 recites a business method according to Claim 1, further comprising the step of notifying the other individual that access has been forwarded to him, together with information on how to access it.

- Jamroga fails to expressly teach the step of notifying the other individual that access has been forwarded to him, together with information on how to access it. However, this feature is well known in the art, as evidenced by Herzen.

In particular, Herzen discloses the step of notifying the other individual that access has been forwarded to him, together with information on how to access it (Herzen; paragraphs: 0066-0073, figures 8, 14).

It would have been obvious to one having ordinary skill in the art at the time of the invention to include the aforementioned limitation as disclosed by Herzen with the motivation of to permit the user to view web pages, send information via web-based forms and encoded URLs, and download files (Herzen; paragraph: 0055).

D. Newly added claim 14 recites a business method according to Claim 1, wherein the other individual is granted access for a limited time.

- Jamroga fails to expressly teach the other individual is granted access for a limited time. However, this feature is well known in the art, as evidenced by Herzen.

In particular, Herzen discloses the other individual is granted access for a limited time (Herzen; paragraphs: 0066-0073, figures 8, 14).

It would have been obvious to one having ordinary skill in the art at the time of the invention to include the aforementioned limitation as disclosed by Herzen with the motivation of to permit the user to view web pages, send information via web-based forms and encoded URLs, and download files (Herzen; paragraph: 0055).

E. Newly added claim 15 recites a business method according to Claim 1, wherein there are limitations on the power of the payer to forward access to other individuals.

- Jamroga fails to expressly teach limitations on the power of the payer to forward access to other individuals. However, this feature is well known in the art, as evidenced by Herzen.

In particular, Herzen discloses limitations on the power of the payer to forward access to other individuals (Herzen; paragraphs: 0066-0073, figures 8, 14).

It would have been obvious to one having ordinary skill in the art at the time of the invention to include the aforementioned limitation as disclosed by Herzen with the motivation of to permit the user to view web pages, send information via web-based forms and encoded URLs, and download files (Herzen; paragraph: 0055).

4. Claims 8-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jamroga et al. (hereinafter Jamroga) (U.S. Patent No. 6,574,742 B1), Herzen et al. (hereinafter Herzen) (U.S. Patent Publication No. 2002/0099652 A1) and further in view of Wood et al. (hereinafter Wood) (U.S. Patent No. 5,851,186).

A. Claims 8-9 and 11-12 have not been amended, and Applicant does not appear to argue the separate patentability of these claims. As such, claims 8-9 and 11-12 are rejected for the same reasons given in the previous Office Action (paper number 4-6), and incorporated herein.

B. Claim 10 has been amended now to recite a business method according to Claim 8, further comprising the step of providing an interface for the payer to forward access for both of the stored digital medical image data and the corresponding reports to the other individual.

The obviousness of modifying the teaching of Jamroga to include the payer forwarding access to an individual other than the payer (as taught by Herzen) is as addressed above in the rejection of claim 1 and incorporated herein.

Response to Arguments

5. Applicant's arguments with respect to claims 1-12 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

7. A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dilek B. Cobanoglu whose telephone number is 571-272-8295. The examiner can normally be reached on 8-4:30.

9. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on 571-272-6776. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3626

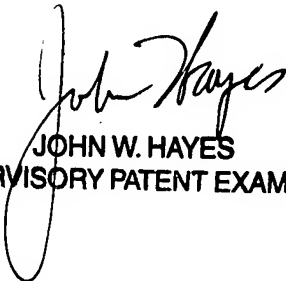
10. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

DBC

DBC

Art Unit 3626

07/23/2007


JOHN W. HAYES
SUPERVISORY PATENT EXAMINER